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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/615,586	07/08/2003	Tony W. Mears	F012.PAT-9	8998

7590 01/04/2005  
Emery L. Tracy  
P.O. Box 1518  
Boulder, CO 80306-1518

EXAMINER
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WRIGHT, ANDREW D

ART UNIT	PAPER NUMBER
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3617

DATE MAILED: 01/04/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

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<b>Office Action Summary</b>	<b>Application No.</b> 10/615,586	<b>Applicant(s)</b> MEARS, TONY W.	
	<b>Examiner</b> Andrew Wright	<b>Art Unit</b> 3617	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 26 July 2004.
- 2a) ☐ This action is **FINAL**.                      2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-31 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-31 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on \_\_\_\_\_ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).  
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☐ All    b) ☐ Some \*    c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- |   |   |
|---|---|
| 1) <input checked="" type="checkbox"/> Notice of References Cited (PTO-892)   | 4) <input type="checkbox"/> Interview Summary (PTO-413)<br>Paper No(s)/Mail Date. _____ |
| 2) <input type="checkbox"/> Notice of Draftsperson's Patent Drawing Review (PTO-948)  | 5) <input type="checkbox"/> Notice of Informal Patent Application (PTO-152)             |
| 3) <input checked="" type="checkbox"/> Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)<br>Paper No(s)/Mail Date <u>10/17/03</u> . | 6) <input type="checkbox"/> Other: _____  |

## **DETAILED ACTION**

### ***Election/Restrictions***

1. Applicant's election of claims 1-31 in the reply filed on 7/26/04 is acknowledged. Because applicant did not distinctly and specifically point out the supposed errors in the restriction requirement, the election has been treated as an election without traverse (MPEP § 818.03(a)). Non-elected claims 32-39 were cancelled by amendment in the reply filed 7/26/04.

### ***Claim Objections***

2. Claims 14 and 15 are objected to. In line 2, the word "device" should be changed to "bladder". Claim 15 has a similar recitation. Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the second paragraph of 35 U.S.C. 112:  
  
The specification shall conclude with one or more claims particularly pointing out and distinctly claiming the subject matter which the applicant regards as his invention.
4. Claims 17, 1830, and 31 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention.
5. Claim 17 recites "first inhibiting means ... for maintaining the position..." in lines 2-3. This recitation invokes 35 USC 112, 6<sup>th</sup> Paragraph, because it: (a) uses the phrase "means for"; (b) modifies the phrase "means for" with functional language; and (c) does

not modify the phrase “means for” with structure for achieving the function. From MPEP 2181:

35 U.S.C. 112, sixth paragraph states that a claim limitation expressed in means-plus-function language “shall be construed to cover the corresponding structure...described in the specification and equivalents thereof.” “If one employs means plus function language in a claim, one must set forth in the specification an adequate disclosure showing what is meant by that language. If an applicant fails to set forth an adequate disclosure, the applicant has in effect failed to particularly point out and distinctly claim the invention as required by the second paragraph of section 112.” *In re Donaldson Co.*, 16 F.3d 1189, 1195, 29 USPQ2d 1845, 1850 (Fed. Cir. 1994) (in banc).

The disclosure does not identify the corresponding structure that performs the recited function of claim 17. The corresponding structure may, for example, include the aperture and stake (specification page 7, lines 13-17), or the aperture and bag (specification page 7, lines 18-19), or the sand cleat pocket and sand cleat (specification page 10, lines 20-25). Since the corresponding structure is not identified, it is impossible for the skilled artisan to determine the corresponding structure and its equivalents. 35 USC 112 6<sup>th</sup> Paragraph states that: “such claim shall be construed to cover the corresponding structure, material, or acts described in the specification and equivalents thereof.” If one cannot determine the corresponding structure and equivalents thereof, then one cannot determine the statutory scope of the claim coverage. Thus the claim is indefinite. Therefore the claim fails to satisfy 35 USC 112

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2<sup>nd</sup> Paragraph. Claims 18, 30, and 31 have similar recitations and are rejected for the same reason.

***Claim Rejections - 35 USC § 102***

6. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

7. Claims 1-4 and 10 are rejected under 35 U.S.C. 102(b) as being anticipated by Neumann et al. (US 4,063,320). Neumann shows first and second bladders and connecting means at the first ends. The first ends will be angled upward and the second ends will be sloped downward when the boat is beached on an incline. The bladders taper toward the second ends. The apparatus has a floor between the bladders.

8. It is noted that claim 1 recites “an inflatable watercraft support device for supporting a watercraft”. The recitation occurs in the preamble. A preamble is generally not accorded any patentable weight where it merely recites the purpose of a process or the intended use of a structure, and where the body of the claim does not depend on the preamble for completeness but, instead, the process steps or structural limitations are able to stand alone. See *In re Hirao*, 535 F.2d 67, 190 USPQ 15 (CCPA 1976) and *Kropa v. Robie*, 187 F.2d 150, 152, 88 USPQ 478, 481 (CCPA 1951).

9. It is noted that claim 1 recites "for supporting a watercraft". In addition to being recited in the preamble, as described above, the recitation is one of intended use. A recitation of the intended use of the claimed invention must result in a structural difference between the claimed invention and the prior art in order to patentably distinguish the claimed invention from the prior art. If the prior art structure is capable of performing the intended use, then it meets the claim. In a claim drawn to a process of making, the intended use must result in a manipulative difference as compared to the prior art. See *In re Casey*, 152 USPQ 235 (CCPA 1967) and *In re Otto*, 136 USPQ 458, 459 (CCPA 1963).

10. Claims 1-3, 6, 8-13, 16 are rejected under 35 U.S.C. 102(b) as being anticipated by Manson et al. (US 2,413,985). Manson shows first and second bladders (11, 12). Connecting means (16) connects the first end of each. Regarding claims 2 and 3, a normal mode of operation for a raft is to be landed on a beach or side of another vessel. In such a situation, the front end of the raft is elevationally higher than the rear end of the raft, such that the first ends will be angled upward and the second ends will be sloped downward. Claim 6, the connecting means is threads (16). Claim 8, the floor and lacing constitute an adjusting means that are capable of adjusting and maintaining the spacing between the first and second bladders. Claim 9, the lacing constitutes a strap. Claim 10, Manson shows a floor (13) between the bladders. Claim 11, Manson shows lacing (16) between the floor and the bladders. Claim 16, each bladder has a fill

valve (22). Claims 12 and 13, Manson shows at least one aperture (14) on each bladder that could be used with a stake.

11. Claims 1 and 5 are rejected under 35 U.S.C. 102(b) as being anticipated by Luscombe (US 3,931,655). Luscombe shows inflatable bladders (14). The first ends of two consecutive bladders are connected by an aperture (27) formed in each bladder and a pin (28) insertable into the aperture (figs 1 and 4).

12. Claims 1, 6, 7, 12-19 are rejected under 35 U.S.C. 102(b) as being anticipated by Moody (US 5,860,379). Moody shows first bladder (6A) and second bladder (8). Each has a first end and a second end. The first ends are connected by connecting means (32, 36). Claim 6, the connecting means is threads. Claim 7, the bladders are fluidly connected to each other via tube (14), hoses (18, 22), valves (68) and manifold (66). Claims 12-15 and 17 and 18, each bladder has a handle (30). The handle can function as a stake down aperture. The handle can function as a means for maintaining the position of the bladder. Claims 16, and 17, each bladder has a fill valve (16). Claims

13. Claims 19, 20-24, and 29 are rejected under 35 U.S.C. 102(b) as being anticipated by Sear et al. (US 3,611,459). Sear shows first and second bladder connected at first ends by connecting means. Hull is made of plywood which is a sheet material. The bladders have a V-shaped configuration when viewed from above. The sheet material has a triangular configuration when viewed from above. The first ends



will be angled upward and the second ends will be sloped downward when the boat is beached on an incline. The connecting means is the protective covering which comprises stitching. The protective covering helps secure the bladders to the sheet material, and the protective covering comprises stitching. There is a fill valve in each bladder.

***Claim Rejections - 35 USC § 103***

14. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

15. Claims 19, 25-28, 30, and 31 are rejected under 35 U.S.C. 103(a) as being unpatentable over Sear et al. (US 3,611,459) in view of Mambretti (US 3,453,671).

Sear discloses the elements of claim 19, as described above. Sear does not disclose handles, stake down apertures, or means for maintaining. Mambretti shows a handle on each bladder. The handle can function as a handle, as a stake down aperture, and as a means for maintaining position. It would have been obvious to the skilled artisan at the time the invention was made to modify Sear by adding handles.



**Conclusion**

16. Any inquiry concerning this communication should be directed to examiner Andrew D. Wright at telephone number (703) 308-6841. The examiner can normally be reached Monday-Friday from 9:00 - 5:00.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, S. Joe Morano, can be reached at (703) 308-0230. The fax number for official communications is 703-872-9306. The fax number directly to the examiner for unofficial communications is 703-746-3548.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Andrew D. Wright  
Patent Examiner  
Art Unit 3617

*AW 12/23/04*  
**ANDREW D. WRIGHT**  
**PRIMARY EXAMINER**